

Message Text

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70

ACTION XMB-07

INFO OCT-01 ARA-11 ADP-00 AID-20 CIAE-00 COME-00 EB-11

FRB-02 INR-09 NSAE-00 RSC-01 TRSE-00 OPIC-12 CIEP-02

LAB-06 SIL-01 SAL-01 OMB-01 NSC-10 SS-14 STR-08

CEA-02 INRE-00 NSCE-00 SSO-00 PA-03 PRS-01 USIE-00

CCO-00 RSR-01 /124 W
----- 055007

O 142237 Z MAR 73

FM AMEMBASSY SANTIAGO

TO SECSTATE WASHDC IMMEDIATE 3727

C O N F I D E N T I A L SANTIAGO 1052

E. O. 11652: GDS

TAGS: BDIS, CI

SUBJ: CERRO

PASS OPIC & EXIM AND TREASURY FOR ASST. SECTY. HENNESSY

1. CERRO VICE PRESIDENT

WALSH AND ATTORNEY OGDEN WHO HAVE BEEN IN
SANTIAGO FOR NEGOTIATIONS WITH THE GOC OFFICIALS SINCE LATE LAST WEEK
CALLED ON AMBASSADOR AT NOON TODAY TO EXPRESS CONCERN OVER LETTER
SENT

BY EXIM TO CERRO CHAIRMAN STARR. LETTER, WHICH HAS PROBABLY BY
NOW COME TO ATTENTION OF ADDRESSEES, SET FORTH EXIM POSITION
DENYING

CERRO'S REQUEST FOR CONSENT TO TRANSFER OF CERRO'S SUBORDINATED
NOTES

TO GOC AND STATING THAT EXIM WILL PURSUE ALL OF ITS LEGAL RIGHTS AND
REMEDIES UNDER RELEVANT DOCUMENTS TO ASSURE ITS PRIOR CLAIM TO ANY
FUNDS RECEIVED BY CERRO. LETTER ALSO MAKES CLEAR THAT CONSENT
OFFERED BY EXIM TO TRANSACTION PROPOSED IN MAY 1971 NO LONGER VALID
AND EXPRESSLY REVOKES CONSENT LETTER OF MAY 11, 1971. (TEXT OF
LETTER TELEXED TO CERRO REPS IN SANTIAGO BY COMMERCIAL CHANNELS
LAST NIGHT SO THAT WE MUST ASSUME THAT GOC IS OR WILL BECOME
AWARE OF CONTENT.)

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2. WALSH INDICATED THAT PROGRESS HAD BEEN MADE IN PAST FEW DAYS AND SAID THAT THOUGH AT LEAST FIVE CRITICAL ISSUES REMAIN UNRESOLVED, CERRO HOPED TO REACH AGREEMENT WITH THE GOC ON THESE IN SHORT ORDER

(CERRO PRESIDENT MURPHY ARRIVING TOMORROW AFTERNOON IN HOPES OF COMPLETING NEGOTIATIONS). OBVIOUSLY, SAID WALSH, EXIM LETTER PUTS CERRO IN DIFFICULT POSITION IN TERMS OF REACHING AND SIGNING AGREEMENT WITH GOC WITHIN NEXT FEW DAYS. HE FURTHER STATED THAT HIS IMPRESSION HAD ALWAYS BEEN THAT CERRO WAS PROCEEDING IN CHILE AS THE USG WISHED IT TO AND, THEREFORE, HAD DIFFICULTY UNDERSTANDING PRESENT EXIM POSITION. IF AGREEMENT IS TO BE REACHED, WALSH FEELS THAT TIMING WILL BE OF GREAT IMPORTANCE AND, THEREFORE, FEARS POSSIBLE EFFECT OF LETTER.

3. AMBASSADOR OBSERVED THAT APPROPRIATE PLACE FOR ARRIVING AT MUTUALLY AGREEABLE POSITION WITH EXIM ON THESE MATTERS WOULD APPEAR

TO BE IN DIRECT TALKS. REGARDING IMPLICATION IN WALSH' S STATEMENT THAT CERRO WAS IN ANY SENSE FOLLOWING USG INSTRUCTIONS OR WAS AN INSTRUMENT OF USG POLICY INTEREST IN ITS NEGOTIATIONS, AMBASSADOR MADE CLEAR THAT SO FAR AS HE KNEW ONLY POSITION TAKEN BY USG WAS TO ASSIST CERRO IN PURSUING ITS LEGITIMATE INTEREST IN ITS OWN BEST BUSINESS JUDGEMENT (ASIDE FROM CERRO' S OBLIGATIONS TO OPIC AND EXIM).

4. AMBASSADOR EXPRESSED UNDERSTANDING OF TIMING PROBLEM AND IMPORTANCE OF MOMENTUM IF AGREEMENT WITH GOC HOPED FOR IN IMMEDIATE FUTURE. IN THIS REGARD A NUMBER OF POSSIBILITIES WERE DISCUSSED WHICH MIGHT PERMIT CERRO REPS TO CONTINUE NEGOTIATING IN SANTIAGO WHILE AT SAME TIME SEEKING AGREEMENT WITH EXIM IN WASHINGTON. ONE POSSIBILITY SUGGESTED BY WALSH WAS THAT IF EXIM WOULD AGREE TO LEAVE EFFECTIVENESS OF YESTERDAY' S LETTER IN ABEYANCE, NEGOTIATED AGREEMENT COULD CONTAIN PROVISION EXPLICITLY MAKING EFFECTIVENESS SUBJECT TO PRIOR EXIM APPROVAL. WHILE THIS APPROACH WOULD OBVIOUSLY ENTAIL SOME PROBLEMS FOR CERRO (E. G., POSSIBILITY THAT SOME PORTIONS OF AGREEMENT MIGHT HAVE TO BE RENEGOTIATED IN ORDER TO SATISFY EXIM) WALSH INDICATED HIS OPINION THAT CERRO COULD ACCEPT THIS AND REQUESTED THT SUGGESTION BY RELAYED TO EXIM.

5. UNDERLYING CONCERN OF CERRO IS LEGAL CHARACTERIZATION OF HOW U, X AND Z NOTES WERE AFFECTED BY CONSTITUTIONAL REFORM (I. E., WERE THEY OR WERE THEY NOT EXPROPRIATED) SINCE CONCLUSION COULD HAVE IMPORTANT EFFECTS ON THEIR US TAX POSITION (EXPROPRIATION WRITE- OFF) AND OPIC POSITION. SAME QUESTION REGARDING PRESENT LEGAL STATUS OF

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EXIM AND SUMITOMO DEBTS COULD ALSO HAVE IMPORTANT EFFECTS ON CERRO' S RELATIVE PRIORITY AS CREDITOR OF GOC IN RELATIONS TO EXIM AND SUMITOMO.

6. PENDING CLARIFICATION OF SITUATION BETWEEN CERRO AND EXIM, WALSH AND OGDEN WILL CONTINUE TO MEET WITH GOC REPS AND KEEP EMBASSY ADVISED. THEY ARE, OF COURSE, MOST ANXIOUS FOR ANY ADVICE WE CAN GIVE THEM ON WASHINGTON' S RESPONSE AND VIEWS.

DAVIS

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